

**IN THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW  
MEXICO**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>20-cr-1707</b>
	)	
<b>THOMAS WABNUM,</b>	)	
	)	
<b>Defendant.</b>	)	

**UNOPPOSED MOTION TO VACATE AND CONTINUE TRIAL  
SETTING**

Defendant, Thomas Wabnum (“Defendant”) hereby request that the Court enter an order continuing the trial of this cause from its present setting of April 12, 2021. In support of Defendant’s motion, the Parties state as follows:

1. Defendant is charged in an indictment charging Aggravated Sexual Abuse and Sexual Abuse in Indian Country in violation of 18 U.S.C. §§ 1153, 2241(a)(1) and 2246(2)(C) and 18 U.S.C. §§ 1153, 2242(2)(A), and 2246(2)(C). Doc. 2.

2. Defendant was arraigned on November 18, 2020 and entered a plea of not guilty. Doc. 13. The Court adopted Defendant’s conditions of release. Doc. 18. In addition, the Court entered a Notice of Hearing establishing a call of the calendar on January 7, 2021 with jury selection and trial set for January 11, 2021. Doc. 17.

3. Pursuant to Rule 16.1, the parties held a pretrial discovery conference and the Government produced initial discovery. The government indicated that additional discovery would be forthcoming.

4. The Government submitted an Unopposed Motion for Protective Order on November 19, 2020, which the Court granted on November 24, 2020. Docs. 19-20. Discovery cannot be supplied directly to the Defendant and counsel must discuss all discovery with him in person.

5. Counsel for Defendant, Wayne Baker, is the caretaker of an immediate relative living in his home, who has recently been diagnosed with terminal cancer. Counsel is unable to meet with Defendant to prepare for trial and review forthcoming discovery.

6. In compliance with the provisions of 18 U.S.C. § 3161(h)(7)(A), such time between the Speedy Trial deadline and the commencement of the trial should be excluded for purposes of the Speedy Trial Act because the undersigned affirmatively state that the ends of justice will be served by granting this continuance. Further, in accordance with *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009), the undersigned represent that the necessity for complete and adequate preparation of the facts and circumstances relating to pretrial matters in this case outweighs the interest of the public and the defendants in speedy trial. Specifically, the undersigned represent that the additional time requested is necessary to permit counsel to thoroughly review the discovery in this matter as well as the plea offer once it is issued to Defendant and make any modifications to the plea language that may be necessary.

7. AUSA Allison Jaros does not oppose this motion.

8. Counsel requests that the Court grant a continuance of the trial of at least 90 days.

**WHEREFORE**, for the foregoing reasons, the Parties to this motion respectfully request that the Court enter an order granting a continuance of the trial setting in this cause from

its present setting of April 12, 2021 for at least 90 days, to a date appropriate to the aims of this motion and convenient to the Court's calendar, vacating the other deadlines associated with the April 12, 2021 trial setting, and providing for such other and further relief to which the Court may find Defendant to be justly entitled.

Respectfully submitted,

**/s/ Wayne Baker**

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**/s/ Meredith Baker**

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#### **CERTIFICATE OF SERVICE**

I hereby certify that I filed the foregoing document electronically through the CM/ECF system. Pursuant to the CM/ECF Administrative Procedures Manual, §§1(a),7(b)(2), such filing is the equivalent of service on parties of record.

**/s/ Meredith Baker**

Meredith M. Baker, Esq.